IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 742 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

RAMESHCHANDRA V VENDOR

Appearance:

MR MUKESH PATEL Ld. APP for the appellant

MR BS PATEL for Respondent No. 1

MR AJ PATEL for Respondent No. 2, 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 11/08/2000

ORAL JUDGEMENT

This acquittal appeal arises from the impugned judgment and order dated 26.6.1991 rendered by the learned Chief Judicial Magistrate, Bharuch in Criminal Case No. 49429/89. The respondent who will be referred

as the accused, came to be acquitted of the offence under sec. 7 read with section 16 of Prevention of Food Adulteration Act.

It would appear from the prosecution case that the complainant being the Food Inspector, Bharuch Nagarpalika , Bharuch went at the shop of accused no. 1 and purchased 3 kg. Salt branded as "Iodised Anant Salt" for the purpose of analysis. After following the formalities, he sent one of the samples for examination to the Public Analyst, Vadodara. Upon examination of the sample, it was found that iodine content was absent as against minimum required 15 p.m. Rest of the standards were found to be conforming with the standard prescribed.

Upon appreciation of the evidence, the learned Chief Judicial Magistrate has found that the prosecution has failed to establish beyond reasonable doubt the actual act of collecting the sample and of sealing it as required. The panch witness Mr. Vishnubhai Chaturmal ex.49 did not support the prosecution. Thus, upon appreciation of the evidence, learned Chief Judicial Magistrate came to the conclusion that the prosecution failed to establish the procedure of taking of the sample and sealing it as required in presence of panch witnesses. This is a case of appreciation of evidence and two views of oral evidence are possible. If that is, the ultimate conclusion arrived at by the learned Chief Judicial magistrate can hardly be faulted in an acquittal appeal.

In the result, this appeal fails and the same is accordingly dismissed.

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